

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DAVID MIDKIFF and)	
SANDRY MIDKIFF,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:08-CV-01221 RWS
)	
3M COMPANY, et al.)	
)	
Defendants.)	JURY TRIAL DEMANDED

OBJECTION TO THE AFFIDAVIT OF DAN ADAMS
ATTACHED TO 3M'S REPLY BRIEF

Plaintiff files this objection to the affidavit of Dan Adams (attached as Exhibit A to 3M's reply) as improper summary judgment evidence because it is wholly based on hearsay, is irrelevant, and offers no probative evidence. Plaintiffs' therefore request that the affidavit be stricken.

Plaintiffs steadfastly maintain that limitations has not run. However, at an earlier hearing on March 4, 2010, Plaintiffs counsel informed this Court that consideration of a summary judgment on limitations based upon the current evidence would be justified. In response, this Court cited Rule 1 to all counsel as the logical basis for such a strategy.

However Mr. Adam's interpreted or misinterpreted the undersigned's off the record remarks at a deposition, the intent of the representation made by the undersigned was to point out that a legitimate issue relating to the workers compensation claim should be addressed before moving forward. This is the same representation made to this Court on March 4, 2010.

Respectfully submitted,
MALONEY ★ MARTIN, LLP

/s/ Mike Martin

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

Pursuant to Rule 5 of the Federal Rules of Civil Procedure, I hereby certify that a true and correct copy of the foregoing document has been provided to all counsel of record and/or attorneys-in-charge via Certified Mail, Return Receipt Requested, and/or via facsimile, and/or via hand delivery, and/or via U.S. Mail on this the 8th day of April, 2010.

/s/ Mike Martin

MIKE MARTIN